

# **BUREAU OF AUTOMOTIVE REPAIR**

## **FINAL STATEMENT OF REASONS**

**Hearing Dates:**

June 4 and 6, 2001

**Subject Matter of Proposed Regulations:**

Smog Check Inspection Procedures;  
Liquid Fuel Leak Inspection

**Section Affected:**

§ 3340.42, Title 16, Division 33,  
Chapter 1, Article 5.5, California  
Code of Regulations

**Updated Information:**

The Initial Statement of Reasons is included in the file. The information contained therein is updated as follows:

The proposed action would add a new subsection (b) to section 3340.42 of Title 16 of the California Code of Regulations to specifically provide that all smog check inspections and tests shall include a visual inspection for liquid fuel leaks. The proposed action also: defines the term “liquid fuel leak” and clarifies the origin of a leak; specifies, with the qualification that they be exposed and visually accessible, the components included in the liquid fuel leak inspection; establishes the basic procedures to be followed in conducting the inspection; provides that no disassembly of the vehicle is required; provides that no special tools or equipment, other than a mirror and flashlight, are required; and provides that no raising, hoisting or lifting of the vehicle is required. The proposed action specifies that expenditures for repairs made at a licensed smog check station to correct liquid fuel leaks detected during a smog check inspection shall be credited toward repair cost waiver expenditures or the repair assistance co-payment. Furthermore, the proposed action would permit a technician to refuse to inspect or to abort an inspection of a vehicle if a liquid fuel leak presents a safety hazard. Finally, the proposed action would exempt from the inspection requirement any vehicle fueled exclusively by compressed natural gas (CNG), liquid natural gas (LNG), or liquid petroleum gas (LPG).

**Local Mandate:**

A mandate is not imposed on local agencies or school districts.

**Business Impact:**

This action will not have a significant adverse economic impact on businesses.

### **Specific Technologies or Equipment:**

This regulation does not mandate the use of specific technologies or equipment.

### **Consideration of Alternatives:**

No reasonable alternative which was considered or that has otherwise been identified and brought to the attention of the Bureau would be either more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed regulation.

### **Objections or Recommendations/Responses:**

The following comments/objections/recommendations were made, either in writing or orally at the public hearings, regarding the proposed action:

**1. Mr. Mike Latham, in an e-mail message dated and received April 20, 2001, offered the following:**

- a. The proposed regulation appears to be an attempt to appease the NRDC.

*This comment/recommendation was rejected because:*

The proposed action is intended to increase the effectiveness of the Smog Check Program for all California citizens, not to cater to any one special interest group. By adding the visual inspection of fuel delivery, metering, and evaporation system components to the smog check inspection requirements, evaporative emissions can be significantly reduced and those reductions can be quantified and documented.

- b. A statewide mandated enhanced testing protocol would bring California closer to compliance.

*This comment/recommendation was rejected because:*

This comment is outside the scope of the proposed action. The liquid fuel leak inspection will be required in all program areas of the state. However, the enhanced area test procedures (BAR97 loaded mode testing) and basic area test procedures (BAR90 two speed idle testing) are not the subject of the proposed action.

- c. The liquid fuel leak test is already being done for safety purposes and the consumer who can't afford to repair the leak declines the repairs. Most fuel leaks are not occurring on post-1990 vehicles. The leaks occur on older vehicles owned by people who can't afford to fix them. Most vehicles won't get fixed and probably won't get registered.

*This comment/recommendation was rejected because:*

It is true that liquid fuel leak inspections currently are being, or should be done for safety purposes. However, this is currently done in a pre-inspection setting and not as part of the official smog check inspection. Therefore, there is no documentation and no ability to capture and quantify evaporative emissions reduction data.

Based on the Bureau's research, which included random inspections of vehicles between the 1974 through 1992 model-years, the majority of vehicles exhibiting liquid fuel leaks are older than the 1990 model-year. However, leaks were discovered in later model vehicles as well. Other than the unsupported assumption that consumers who can't afford to repair them drive older vehicles, it is not clear what the age of the vehicle has to do with the proposed action.

To say that consumers who can't afford to repair leaks decline to do so appears to be pure conjecture. On the contrary, information that has come to BAR informally indicates that most consumers, regardless of their economic status, do choose to repair liquid fuel leaks. First, because of the serious safety concerns; and secondly, because of the high cost of gasoline today. The Bureau's research indicates that, in general, the cost to repair liquid fuel leaks is relatively inexpensive. In the Bureau's study, it was determined that such repair costs ranged from \$30.00 to \$231.00 with a weighted average repair cost of \$111.00. In any event, the proposed action includes the specific provision that such repairs fall under the scope of the Consumer Assistance Program (CAP) for eligible consumers. Therefore, money spent to repair these leaks can be applied to the repair assistance co-payment. The CAP's repair assistance coverage will also include such repairs because they are clearly emissions related.

It is the Bureau's opinion, considering the foregoing, that most vehicles found to have liquid fuel leaks will be repaired and will be registered.

- d. This adds another step to the smog check inspection. As a result the price of a smog check will increase.

*This comment/recommendation was rejected because:*

As stated in the previous comment, visual inspections for liquid fuel leaks are already being done for safety purposes. When incorporated into the official smog check inspection procedure, this inspection should not take longer than 60-seconds to perform. The technician is already required to perform visual inspections of various components under the hood. The technician is also required to look under the vehicle to inspect the catalytic converter and to examine and test the fuel fill pipe and gas cap. These are the same general areas of the vehicle that one would check for liquid fuel leaks. It is difficult to see how this could add even a small amount to the cost of a smog check inspection given

the fact that the liquid fuel leak inspection is already being done, albeit in an unofficial, pre-inspection setting.

- e. Will this be another step in the inspection process that technicians will ignore or skip, if it is not convenient to perform?

*This comment/recommendation was rejected because:*

By putting this inspection procedure into regulation, it becomes an enforceable requirement. It's not necessarily a matter of "convenience" either. It's difficult to see how this simple visual inspection could be considered inconvenient. The technician is already required to perform other visual inspections and functional tests in the same general areas that would be involved in the visual liquid leak inspection; i.e., under the hood, under the vehicle, and around the fuel fill pipe and gas cap. Skipping this or any other step in the process is a willful and intentional act on the part of the technician.

- f. How does a technician tell the difference between a liquid fuel leak and a lubricating fluid leak in the rain?

*This comment/recommendation was rejected because:*

First, California Code of Regulations Section 3340.15 requires that vehicle testing be done inside a building's work area, so the vehicle's engine compartment and undercarriage should remain relatively dry. Second, most lubricating fluids are not colorless, as is gasoline. Third, gasoline has a very distinctive and easily identifiable odor. In addition, gasoline may leak from components of the vehicle that are very different and discernible from those that contain lubricating oils. Identification of fluids other than gasoline should not pose a problem for the technician.

**2. Mr. Thomas H. Claridge, in a letter dated April 20, 2001, and received April 24, 2001, offered the following:**

- a. Many vehicles, including the brands we sell (Mercedes-Benz, Porsche and BMW), have the fuel system fully or partially enclosed so that a visual inspection is useless.

*This comment/recommendation/objection was accepted and the proposed action was modified as follows to accommodate it:*

The language of the proposed action specifically states that no disassembly is required, so the inspection of any enclosed component would not be required. However, in order to clarify the intent of the proposed action, the language of the regulation change has been modified to require inspection of only those listed

components that are "... exposed and visually accessible ...” With this qualification added, there should be no question of what is required.

- b. This would give the customer a false sense of “well-being” and could expose the dealer to liability.

*This comment/recommendation was rejected because:*

If the dealer does what is required by the regulation, and doesn't mislead the consumer in some way, there should be adequate defense to any action that might arise. Furthermore, it is not clear how a consumer could be given a “false sense of ‘well being’ ” by simply passing a smog check inspection. The Vehicle Inspection Report that the consumer receives will simply indicate the vehicle's evaporative, fuel delivery and fuel metering system either passed or failed.

- c. Most Mercedes-Benz have the fuel tank, fuel pump and connecting lines encased in a protective enclosure preventing visual inspection without opening the enclosure; a considerable job. Almost all of our products (Mercedes-Benz, Porsche and BMW) have the fuel lines running inside a central tunnel which prevents seeing them without raising the vehicle.

*This comment/recommendation/objection was accepted and the proposed action was modified as follows to accommodate it:*

The language of the proposed action specifically states that no disassembly is required, so the inspection of any enclosed component would not be required. However, in order to clarify the intent of the proposed action, the language of the regulation change has been modified to require inspection of only those listed components that are "...exposed and visually accessible..." With this qualification added, there should be no question of what is required.

- d. We will have to raise the price of a smog check to cover the cost of properly inspecting fuel systems, including whatever disassembly is required, or we will be forced to no longer perform smog checks.

*This comment/recommendation was rejected because:*

The Bureau cannot control inspection prices; that is a marketplace decision that the station owner or operator must make. It is also the choice of the individual businessman whether to participate in the smog check program. However, the proposed action simply will not, in and of itself, provide any significant economic consideration that would legitimately affect such decisions.

The proposed action does **NOT** require any disassembly or lifting of a vehicle. Neither does it require, in its modified form, the inspection of any component that is not exposed and visually accessible. Since the Bureau's own study has shown

that the entire visual liquid fuel leak inspection takes no more than approximately 60-seconds to complete, it is simply not credible to state that the price of a smog check will have to be increased as a result of the proposed action.

The technician is already required to perform visual inspections of various components under the hood. The technician is also required to look under the vehicle to inspect the catalytic converter and to examine and test the fuel fill pipe and gas cap. These are the same general areas of the vehicle that one would check for liquid fuel leaks. It is difficult to see how this could add even a small amount to the cost of a smog check inspection given the fact that the liquid fuel leak inspection is already being done, albeit in an unofficial, pre-inspection setting.

- e. Our service department estimates that to properly check the fuel system for leaks would take between one and three hours at an hourly rate of over \$110/hour, depending on the make and model of vehicle. Any half-done inspection would be unacceptable to our customers and would leave us in an unacceptable legal risk position.

*This comment/recommendation was rejected because:*

Again, no special disassembly is required and the modified text further reinforces this concept by requiring inspection of only those fuel delivery components that are exposed and visually accessible. Please refer to previous responses to comments “a,” “b,” and “c.”

- f. This is an unfunded mandate; an attempt to get businesses to perform service without being paid. The unintended consequence will be smog check stations increasing prices or not offering smog check services at all.

*This comment/recommendation was rejected because:*

The Bureau cannot control inspection prices; that is a marketplace decision that the station owner or operator must make. It is also the choice of the individual businessman whether to participate in the smog check program. However, the proposed action simply will not, in and of itself, provide any significant economic consideration that would legitimately affect such decisions.

As stated previously, visual inspections for liquid fuel leaks are already being done for safety purposes. When incorporated into the official smog check inspection procedure, this inspection should not take longer than 60-seconds to perform. The technician is already required to perform visual inspections of various components under the hood. The technician is also required to look under the vehicle to inspect the catalytic converter and to examine and test the fuel fill pipe and gas cap. These are the same general areas of the vehicle that one would check for liquid fuel leaks. It is difficult to see how this could add even a small

amount to the cost of a smog check inspection given the fact that the liquid fuel leak inspection is already being done, albeit in an unofficial, pre-inspection setting.

- g. If many dealers decide to drop out of the smog check program, the lack of competition will cause prices to soar.

*This comment/recommendation was rejected because:*

The Bureau believes that this is unlikely given that there are currently over 8,000 smog check stations in California. Furthermore, there is no reason to believe, for all of the foregoing reasons (see responses to comments “a,” “b,” “c,” “d” and “e”), that the proposed action would have any legitimate affect on dealers deciding to drop out of the program or the price of a smog check inspection.

**3. Della Bousquet, Specialist, Regulation Review Unit (RRU), California Technology, Trade and Commerce Agency, in a letter dated May 11, 2001, and received May 14, 2001, offered the following:**

- a. Determining what constitutes a “visible liquid drop” is subjective. It is unclear whether dampness on a component would be considered a “visible liquid drop” and therefore a “fuel leak.” Enforcement could be inconsistent, because of the lack of clarity and each investigator’s interpretation of the rule. This situation could be exacerbated by the fact that some of the fuel system components cannot be inspected without either lifting the vehicle, disassembling parts, or inspecting the underside of the car.

*This comment/recommendation/objection was accepted and the proposed action was modified as follows to accommodate it:*

This inspection, like any other visual inspection, is necessarily somewhat subjective, and determining what constitutes a “visible liquid drop” is open to some difference in interpretation. Even the definitions of what a “drop” is vary somewhat from dictionary to dictionary. For instance, the *New Webster Encyclopedic Dictionary of the English Language* defines a drop as “(a) small portion of any fluid in a spherical form, falling or pendant, as if about to fall; ... a very small quantity of liquid.” Also, *Webster’s Third New International Dictionary* defines a drop as “the quantity of fluid which falls in one spherical or spheroidal mass; a liquid globule; ... the smallest practical unit of liquid measure varying in size according to the specific gravity and viscosity of the liquid and the conditions under which the drop is formed;...” And, as Ms. Bousquet points out below, the *American Heritage Dictionary* defines a drop as “the smallest quantity of a liquid heavy enough to fall...” It can be simple or complex.

The inspection that would be implemented through the proposed action is intended to be a very simple, visual inspection. The technician is to look at the

appropriate components to see if there is a visible drop of liquid fuel present. He has to be able to see it and it has to be in a liquid state. The size of the drop is not relevant.

Furthermore, dampness is not a drop. None of the applicable definitions of a “drop” make any reference to dampness. All of these definitions appear to contemplate a small concentration of fluid in a spherical or liquid globule form. In order to make this perfectly clear, the proposed action was modified to specifically refer to fuel emanating from components in liquid form that has created a drop or puddle of fuel. When taken in its overall context, it is clear what is intended by the proposed action and what will be expected of technicians in performing the liquid fuel leak inspection.

In addition, the proposed action was modified to reinforce the proposition that no disassembly or lifting of the vehicle is required to perform this inspection. Specifically, the modifications provide that only components that are “exposed and visually accessible” need to be examined for leaks and that “(n)o special tools or equipment, other than a flashlight and mirror, are required.”

- b. It has been stated that a smog technician only needs to inspect vehicle components with a mirror and flashlight. If this is BAR’s intent, it should be stated in the regulation text. RRU understands that for some vehicle models it is impossible to detect some fuel leaks by merely performing a visual inspection of the engine and gas cap. BAR should also clarify whether all of the inspection procedures are mandatory, if some cannot be completed with only a mirror and flashlight.

*This comment/recommendation/objection was accepted and the proposed action was modified as follows to accommodate it:*

The only equipment or tools that would be required to complete a visual inspection for liquid fuel leaks are indeed a mirror and flashlight. In order to make this perfectly clear, the language of the proposed action has been modified to state, “No special tools or equipment, other than a flashlight and mirror, are required...”

The language of the proposed action specifically states that no disassembly is required, so the inspection of any enclosed component would not be required. However, in order to clarify the intent of the proposed action the language of the regulation change has been modified to require inspection of only those listed components that are “...exposed and visually accessible...” With this qualification added, there should be no question of what is required.

- c. To minimize potential cost impacts, BAR should consider clarifying its intent with respect to the extent of a “visible drop or more of fuel” that would constitute a fuel leak. The *American Heritage Dictionary* defines a drop as “the smallest

quantity of a liquid heavy enough to fall...” Both the dictionary definition, and BAR usage of the term “drop,” requires a technician to assess whether some quantity of fuel is going to fall from a vehicle. For example, a fuel leak could result in a stain on hoses or other components, without ever dripping from a vehicle because it evaporates from a hot engine. It is not clear what a technician is required to do regarding such a fuel leak. That decision is left up to the technician, who potentially could be subject to citations and fines. Without a more clear definition and standard, consumers could also be subject to unnecessary repair work and costs.

*This comment/recommendation/objection was accepted and the proposed action was modified as follows to accommodate it:*

The definition of a “drop” varies somewhat from dictionary to dictionary. For instance, the *New Webster Encyclopedic Dictionary of the English Language* defines a drop as “(a) small portion of any fluid in a spherical form, falling or pendant, as if about to fall; ... a very small quantity of liquid.” Also, *Webster’s Third New International Dictionary* defines a drop as “the quantity of fluid which falls in one spherical or spheroidal mass; a liquid globule; ... the smallest practical unit of liquid measure varying in size according to the specific gravity and viscosity of the liquid and the conditions under which the drop is formed;...” And, as Ms. Bousquet points out below, the *American Heritage Dictionary* defines a drop as “the smallest quantity of a liquid heavy enough to fall...” It can be simple or complex. However, all of these definitions appear to contemplate a small concentration of fluid in a spherical or liquid globule form.

The inspection that would be implemented through the proposed action is intended to be a very simple, visual inspection. The technician is to look at the appropriate components to see if there is a visible drop of liquid fuel present. He or she has to be able to see it and it has to be in a liquid state. The size of the drop is not relevant.

The appearance of a “stain” does not constitute a liquid fuel leak within the meaning of the proposed action. A stain could be the result of an old leak that has previously been repaired. Or, a stain could be the result of the spilling of fuel from an external source. The technician is not required to do anything regarding a stain. The proposed action does not require the technician to look for stains nor to fail a vehicle because of the appearance of a stain.

In order to make this perfectly clear, the proposed action was modified to specifically refer to “any fuel emanating from” fuel systems and components “in liquid form that has created a visible drop” or “puddle” of fuel. When taken in its overall context, it is clear what is intended by the proposed action, and what will be expected of technicians in performing the liquid fuel leak inspection.

- d. If it is BAR's intent to focus on any evidence of a fuel leak that is visible with only a mirror and flashlight, without lifting or disassembling any part of a vehicle, then the proposed text should make that intent clear. Such a definition may exclude some of the inspections for certain vehicle models; however, BAR has already stated to RRU that not all specified components could be inspected for fuel leaks on all vehicle models.

*This comment/recommendation/objection was accepted and the proposed action was modified as follows to accommodate it:*

The language of the proposed action specifically states that no disassembly is required, so the inspection of any enclosed component would not be required. However, in order to clarify the intent of the proposed action, the language of the regulation change has been modified to require inspection of only those listed components that are "...exposed and visually accessible..." With this qualification added, there should be no question of what is required.

- e. The statements made by BAR in the *Notice* and the *Economic and Fiscal Impact Statement* (STD. 399 Form) to the effect that BAR is not aware of any cost impacts associated with the proposed regulation, are not completely accurate, and therefore are likely to confuse impacted businesses and private parties. Based on the ERG study, about two percent of all vehicles will fail a smog check that includes the fuel leak test. BAR staff estimates that one- percent would have failed a smog check anyway, so that only an additional one- percent of vehicles will fail the smog check test solely as a result of the fuel leak test. Also, according to the statistics published for the first quarter of 2001 on the BAR Web site, about ten million vehicles are tested annually, and that the current average repair cost from a failed smog test is \$133. These data suggest that about 100,000 vehicles will fail a smog test due to fuel leaks. The likely potential cost to consumers, and corresponding increased revenue to repair businesses, would be millions of dollars annually. Since BAR had information on potential cost impacts, that information should have been disclosed in the *Notice*. The cost impact information should also be disclosed in the final statement of reasons.

*This comment/recommendation was rejected because:*

The major difference between the current pre-test rejection and the official inspection under the proposed action, is that most of these leaks will be recorded as **failures** and the corresponding data will be captured and used to document and quantify emissions reductions. The other difference, and perhaps a more important one from the consumer's point of view, is the application of the Consumer Assistance Program (CAP) coverage to the repair of fuel leaks.

What this comment fails to recognize is the fact that, currently, the same vehicles that would fail under the proposed action are being, or should be, **rejected** for safety reasons prior to commencement of the official smog check inspection. The

fuel leaks should then be repaired before the vehicle is officially tested. These vehicles are the same vehicles; these leaks are the same leaks; and these repair costs are the same costs, whether the leak is identified in a pre-inspection setting or as part of the official test procedure.

Section 3.9 of BAR's *Smog Check Inspection Manual* (Revision 5, Oct. 1999), provides as follows:

**“3.9 Rejected vehicles.** The licensed technician may be able to determine that a vehicle is not in a safe or operable condition adequate for testing, before starting the official test.

“Examples of this are:

- Excessive fluid leaks in the engine, transmission or fuel system;
- Engine overheating or excessive noise;
- Inadequate tires – ASM test.

“The licensed technician should reject the vehicle prior to beginning the inspection/test.”

The rejection of unsafe vehicles is not mandatory – it is merely suggested and encouraged. Furthermore, the suggestion only refers to **excessive** leaks. BAR is aware that not all vehicles with liquid fuel leaks are rejected, and not all vehicles that are rejected receive necessary repairs. However, most of these vehicles are being rejected and repaired and the relatively few that may not be, clearly should be. Based on this, BAR does not believe that there will be any appreciable cost impact on anyone.

Information received by BAR in meetings with industry representatives indicates that most consumers, regardless of their economic status, do choose to repair liquid fuel leaks. First, because of the serious safety concerns; and secondly, because of the high cost of gasoline today. The Bureau's informal research indicates that, in general, the cost to repair liquid fuel leaks is relatively inexpensive. In the Bureau's study, it was determined that such repair costs ranged from \$30.00 to \$231.00, with a weighted average repair cost of only \$111.00. The overall median repair cost, including parts and labor, was determined to be even less - \$90.80.

In any event, the proposed action includes the specific provision that such repairs fall under the scope of CAP for eligible consumers, thus mitigating any potential cost impact for many consumers. The money spent to repair these leaks can be applied to the repair assistance co-payment. The CAP's repair assistance coverage will also include these repairs because they are clearly emissions related. Currently, fuel leak repairs that result from a test rejection are not eligible for any

of these assistance programs. The proposed action provides for state repair assistance in the area of fuel leaks, where it did not exist in the past.

Finally, this comment is inaccurate in one other respect. The inference that approximately 100,000 vehicles will be affected is greatly exaggerated. That estimate (100,000) is based on the entire vehicle fleet that is tested annually. However, liquid fuel leaks have been found to occur, predominately, in 1990 model-year and older vehicles. BAR estimates that less than 50,000 vehicles may actually be affected annually.

**4. Mr. Will L. Woods, in oral testimony given at the June 6, 2001 public hearing, offered the following:**

- a. We're on record as supporting the proposed regulation. Technically, its not really according to the rules, but everyone's doing this now, its just not being documented. Everyone is going to be comfortable with having it be a formal reg.

*This expression of support was accepted and considered in adopting the proposed action.*

- b. There are concerns with such things as whether an undercover car is going to be used. Your department has answered most of the concern. We hope that that continues – that there really wouldn't be too much of a test on that, because it might not be safe and also it's really a gray area, as to whether, how you would detect leaks.

*This comment/recommendation was rejected because:*

The Bureau cannot and will not discuss or disclose its enforcement and investigatory techniques and procedures. However, it should be clear that the Bureau would not use undercover cars that present a safety risk to operators or the public. Any investigative methods employed by the Bureau will be safe and impartial, as is historically the case.

- c. The only other concern by the industry is that visual is in fact just that -“visual.” Inspecting such things as gas tanks and fuel lines is very difficult to do, even with a mirror. The only thing the industries are concerned with is that the department recognizes that it's difficult and that best care is used. It's still visual, and as far as the actual drops, you can get one drop in a visual detection.

*This comment/recommendation/objection was accepted and the proposed action was modified as follows to accommodate it:*

The only equipment or tools that would be required to complete a visual inspection for liquid fuel leaks are a mirror and flashlight. In order to make this

perfectly clear, the language of the proposed action has been modified to state, “No special tools or equipment, other than a flashlight and mirror, are required...”

The language of the proposed action specifically states that no disassembly is required, so the inspection of any enclosed component would not be required. However, in order to clarify the intent of the proposed action the language of the regulation change has been modified to require inspection of only those listed components that are “...exposed and visually accessible...” With this qualification added, there should be no question of what is required.

- d. Some guys have talked about using a paper towel to see if it soaks into the paper towel. I don’t know if that discussion’s gone any further in the department as to whether that’s a reasonable test. Is that something that would be formalized by the department or would it just be an example?

*This comment/recommendation was rejected because:*

Neither the paper-towel method nor any other testing method will be specified or recommended by this regulation. The proposed regulation simply requires the technician to determine if there is a visible “drop” of fuel present to fail the visual test. The technician is to look at the appropriate components to see if there is a visible drop of liquid fuel present. He has to be able to see it and it has to be in a liquid state; he does not have to test it.

- e. We welcome the fact that we will be able to do this. We understand the objective is to document the emissions savings and things of that sort, for the department and the state.

*This expression of support was accepted and was considered in the adoption of the proposed action.*

- f. If a customer were to bring a car in and the technician saw something leaking and raised the hood and saw the leak; the repair professional’s not required to conduct the smog test at that time. Isn’t he merely going to do a repair; he’s going to find the leak and repair the fuel leak before testing the car, correct?

*This comment/recommendation was rejected because:*

As is currently the practice, and as specifically provided in the proposed action, the technician may reject the vehicle as being unsafe and require the fuel leak to be repaired prior to the inspection. If an unsafe condition is found during the test, the technician may abort the test and require repairs prior to re-inspection.

- g. The industry would recommend that BAR issue publications or something that professionals could distribute to consumers to explain this regulation. We’re going to be the bad guys in this, no matter how it looks – and we’re going to be

failing cars instead of aborting the test and repairing it, and then rerunning it. We understand why and it works. The objective here is obviously to document the clean air achievement. We want to make sure the consumer understands why it's being done and that it's not only a clean air issue, but also it is a safety issue.

*This comment/recommendation was rejected because:*

This comment is outside the scope of the proposed action. However, testing procedures and other related matters will be publicized in the *Smog Check Advisory* as well as the *Smog Inspection and Repair Manual*, published by the Bureau. Undoubtedly, these issues will also be addressed in fact sheets, brochures and other publications produced by the Bureau for consumers.

There were no comments received regarding the modified proposal.